

**United States**  
**Department of the Interior**  
**Bureau of Land Management**

*Miles City Field Office*

**Denbury**  
**ROW Assignments**

Categorical Exclusion (CX)  
DOI-BLM-MT-C020-2013-0145-CX

*For Further Information Please Contact:*

Bureau of Land Management  
Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301  
406-233-2800

BLM



UNITED STATES DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
*Miles City Field Office*  
*111 Garryowen Road*  
*Miles City, Montana 59301*

**CATEGORICAL EXCLUSION REVIEW AND APPROVAL**

**A. Background**

BLM Office: Miles City Field Office

Serial Numbers: MTM-88965, MTM-89003, MTM-89004, MTM-89994

NEPA Number (if applicable): DOI-BLM-MT-C020-2013-0145-CX

Proposed Action Title/Type:

4 ROW Assignments to Denbury Onshore, LLC

Location of Proposed Action (include county):

See attached list with serial number, use, authorization, county and expiration dates

Description of Proposed Action:

The proposed action is to assign four rights-of-way from Burlington Resources Oil and Gas Company, LP to Denbury Onshore, LLC. MTM-88965 is authorized under the Federal Land Policy and Management (FLPMA) for a road and will expire on March 28, 2019. The other three rights-of-way are authorized under the Mineral Leasing Act (MLA) for water pipelines and are issued in perpetuity. These rights-of-way will be assigned pursuant to the act under which they were authorized, subject to all applicable provisions of the regulations at 43 CFR 2800 and 2880, and subject to the terms, conditions and stipulations under which they were authorized. No new standard stipulations would be added. Denbury Onshore, LLC has requested that the rights-of-way be assigned from Burlington Resources Oil and Gas Company, LP to them. They have submitted a SF-299, an Assignee Agreement, and a processing fee. Burlington Resources has submitted an Assignor Consent agreeing to the assignments. All of the rights-of-way have been inspected and are being used for the purpose for which they were authorized.

**B. Land Use Plan Conformance**

Land Use Plan Name: Big Dry Resource Area RMP/EIS ROD

Date Approved/Amended: Approved in April of 1996

The proposed action is in conformance with the Big Dry RA RMP/EIS and Record of Decision (ROD) approved in April of 1996. Page 10 of the ROD states that “Land use permits, leases, and easements will be issued on a discretionary basis, consistent with Section 302 of the Federal Land Policy and Management Act of 1976.” Impacts from the open OHV area are discussed on pages 150-151, page 173 (#5), and page 175 (#5). The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

### C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (9) for renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.


Extraordinary Circumstances		
<b>The project would:</b>		
1. Have significant impacts on public health or safety.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>The project would not have significant impacts on public health and safety as it is for the assignment of four existing rights-of-way. DDL 5/7/2013</i>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>Impacts would not be significant as the proposed action is to assign four existing rights-of-way. DDL 5/7/2013</i>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>No controversial environmental effects or unresolved conflicts. DDL 5/7/2013</i>

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No <b>X</b>	<b>Rationale:</b> <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. DDL 5/7/2013</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No <b>X</b>	<b>Rationale:</b> <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis. DDL 5/7/2013</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No <b>X</b>	<b>Rationale:</b> <i>This action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. See CFR 1508.7 DDL 5/7/2013</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		
Yes	No <b>X</b>	<p><b>Rationale:</b> <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i></p> <p>BLM and Montana SHPO Cultural Resource and Paleontological records indicate that the four ROWS are in areas inventoried for cultural resources. No sites would be affected by the proposed reassignment of the ROWS. The proposed reassignments meet the waiver of inventory criteria found in BLM Montana/Dakotas Cultural Resources Handbook H-8110-1, Section II. C.4. Reassigning the ROWs would have no effect to historic properties (See BLM Cultural Resources Report MT-020-13-196).</p> <p>DM 05/22/13.</p>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		

Yes	No X	<b>Rationale:</b> <i>Threatened or endangered habitat and/or species do not exist in the proposed ROW renewal area.</i> <b>KU 5/21/13</b>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	<b>Rationale:</b> <i>No laws are being violated by this action.</i> <b>DDL 5/7/2013</b>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	<b>Rationale:</b> <i>Does not have a disproportionately high and adverse effect on low income or minority populations.</i> <b>DDL 5/7/2013</b>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No X	<b>Rationale:</b> <i>Consultation with tribes regarding Indian sacred sites must take place. The proposed action is to reassign four existing ROWs. The proposed action does not affect access or uses to public lands. The Ethnographic Overview for Southeast Montana does not list any areas of concern in the location of the four ROWs.</i>  <b>DM 05/22/13</b>
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	No X	<b>Rationale:</b> <i>The proposed action will not contribute to the introduction or spread of noxious weeds as four existing rights-of-way are being assigned.</i> <b>DDL 5/7/2013</b>

  
\_\_\_\_\_  
Environmental Coordinator

5/22/2013  
Date

  
\_\_\_\_\_  
Supervisory Land Use Specialist

05/23/2013  
Date

Decision Record for Categorical Exclusion  
Assignment of Four Rights-of-way from  
Burlington Resources Oil and Gas Company, LP  
to Denbury Onshore, LLC  
DOI-BLM-MT-C020-2013-0145-CX

Decision: I have made the decision to assign four rights-of-way from Burlington Resources Oil and Gas Company, LP to Denbury Onshore, LLC. The rights-of-way are issued for various purposes, under various authorizations, and are all located in Fallon County (see attached list). The rights-of-way will be subject to the terms and conditions in 43 CFR 2800 and 2880 and the terms, conditions and stipulations which were authorized for each right-of-way. No new standard stipulations will be added to any of the assigned rights-of-way. Denbury Onshore, LLC has submitted a Category 2 processing fee. All the rights-of-way have been inspected and are being used for the purpose for which they were authorized. The rights-of-way will be monitored for use and before future renewal or closure.

Rationale for Decision: The proposed action meets the criteria for a categorical exclusion under 516 DM 11.9E (9) and none of the exceptions in 516 DM 2 apply. Further the action is in conformance with the Big Dry Resource Area RMP/EIS which was approved in April of 1996.

I considered the proposed action. There is no potential for significant impacts. Use of this CX is appropriate and I have decided to implement this action.

**D: Signature**



\_\_\_\_\_  
Signature of Authorizing Official

05/23/2013

\_\_\_\_\_  
Date

Name: Todd D. Yeager

Title: Field Manager

**Contact Person**

For additional information concerning this CX review and decision, contact:

Dalice Landers, Realty Specialist (406-233-2836)  
BLM – Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301

### **Administrative Review or Appeal Opportunities**

A BLM decision to issue a ROW may be appealed under regulations in 43CFR 2801.10 and 2881.10 in accordance with part 4 of 43 CFR. A BLM decision affecting a ROW application carries the “full force and effect” of the decision. Under full force and effect the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. The decision to issue a ROW in full force and effect requires information on petitions for stay to be included with the decision notification. The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and information on BLM Form 1842-1. If an appeal is taken, the notice of appeal must be filed in the Miles City Field Office at 111 Garryowen Road, Miles City, Montana 59301 within 30 days from receipt of the decision issuing the decision. The appellant has the burden of showing that the decision appealed from is in error.

If a petition (request) is filed pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of the decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Miles City Field Office. If a stay is requested, the requester has the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

### **RIGHTS-OF-WAY BEING ASSIGNED**

MTM-88965 – Road – FLPMA – Expires 3/28/2019

T. 7 N., R. 61 E., Section 22: W $\frac{1}{2}$ W $\frac{1}{2}$ , Fallon County, Montana, PMM

MTM-89003 – Water Pipeline – MLA - Perpetual

T. 9 N., R. 58 E., Section 26: NE $\frac{1}{4}$ , Fallon County, Montana, PMM

MTM-89004 – Water Pipeline - MLA – Perpetual

T. 9 N., R. 58 E., Section 26: SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Fallon County, Montana, PMM

MTM-89994 – Water Pipeline – MLA – Perpetual

T. 9 N., R. 58 E., Section 26: SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ , Fallon County, Montana, PMM